

**Agenda for Meeting with Colorado Department of Public Health and Environment (CDPHE)  
and Colorado Oil & Gas Conservation Commission (COGCC)  
Coordination on Oil & Gas Compliance and Enforcement Efforts**

January 12, 2018, 1:00 PM – 3:00 PM

CDPHE

4300 Cherry Creek S. Drive

Denver, CO 80246

1. Introductions
2. Opening Remarks
3. Roles and Responsibilities regarding O&G
4. Current Issues (round robin format)
  - a. What's working well
  - b. Areas for improvement
5. Planning for 2018
6. Next steps

CDPHE Attendees:

Martha Rudolph – Director, Environmental Programs

COGCC Attendees:

Matt Lepore – Director, COGCC

EPA Attendees:

Doug Benevento – Regional Administrator

Suzanne Bohan – Assistant Regional Administrator, Office of Enforcement, Compliance and Environmental Justice

Scott Patefield – Director, Air & Toxics Technical Enforcement Program

Aaron Urdiales – Director, RCRA/CERCLA Technical Enforcement Program

Cindy Beeler – Energy Advisor to the Regional Administrator

Monica Morales – Director, Air Program

## ANNOTATED AGENDA

### 1) Introductions

### 2) Opening Remarks

- Thank you for accepting our invitation to have this meeting to discuss our work as regulatory agencies of the oil & gas sector. We see this as the first of many focused conversations around how we can enhance our existing relationships, be clearer regarding our roles and responsibilities, better align priorities and allocate resources and gain efficiencies in our work.
- The impetus for this meeting comes from correspondence EPA received from O&G industry representatives in Colorado and North Dakota expressing concern about EPA's role in enforcing Clean Air Act regulations in these two states. In response, Administrator Pruitt committed that each Region would work with their counterpart oil & gas regulatory agencies to enhance existing relationships and define EPA /state-lead responsibilities on compliance and enforcement work to eliminate duplication of efforts. (see Appendix #1 for Administrator Pruitt's response letter to WEA).
- The Administrator made two additional commitments in his response to industry. He stated EPA would develop best practices for the judicious use of Clean Air Act section 114 information requests in the oil and gas sector and that EPA would convene a roundtable with representatives of the oil and gas sector and state regulatory agencies to discuss industry concerns and enhance communication while ensuring safe and responsible domestic oil and gas production. OECA has developed criteria for elevation as well as a tracking system for information requests. OECA has also taken the lead in organizing the industry-regulator roundtable.  
**Thank Martha Rudolph (in context of her leadership roles in ECOS – several roles including current co-chair of Shale Gas Caucus in ECOS) and Matt Lepore (in context of his leadership role in IOGCC - 2017 IOGCC 2nd Vice Chairman) for their assistance in creating an agenda and invitee list for national oil & gas roundtable meeting to be held at Region 8 on 1/23-1/24/18.**
- Today, we are eager to engage in a frank discussion about our key roles and functions, priorities and challenges related to the oil and gas sector, opportunities to leverage expertise and avoid duplication of effort with the goal of building a stronger regulatory relationship among our agencies as we work to protect public health and the environment.

### **3) Roles and responsibilities regarding oil & gas**

- EPA - Overview of Relevant Elements of EPA Strategic Plan Framework:
  - In October 3<sup>rd</sup>, EPA released its draft Strategic Plan for public comment. EPA is currently considering the comments we received. The Plan establishes priorities for advancing progress over the next four years in each of EPA's core mission areas—land, air, water—as well as chemicals. These efforts will be supported by strong compliance assurance and enforcement in collaboration with our state and tribal partners, and use of the best available science and research to address current and future environmental hazards, develop new approaches, and improve the foundation for decision making.
  - EPA plans to collaborate more efficiently and effectively with other federal agencies, states, tribal nations, local governments, communities, and other partners and stakeholders to address existing pollution and prevent future problems. With our partners, we will pay particular attention to vulnerable populations. Children and the elderly, for example, may be at significantly greater risk from elevated exposure or increased susceptibility to the harmful effects of environmental contaminants.
  - The idea that environmental protection is a shared responsibility between the states, tribes, and federal government is embedded in our environmental laws, which in many cases provide states and tribes the opportunity and responsibility for implementing environmental protection programs.
  - As you know, most states are authorized to implement environmental programs within their jurisdictions in lieu of EPA-administered federal programs. ECOS indicates that states have assumed more than 96 percent of the delegable authorities under federal law. There are, however, some programs that by statute may not be delegated to the states. Further, as a part of its trust responsibilities, EPA maintains responsibility for implementing environmental programs in much of Indian country. Recognizing these evolving responsibilities, EPA will adapt its practices to reduce duplication of effort with authorized states and tailor its oversight of delegated programs.

EPA - Share Delegations Table for Colorado. Highlight regulations relevant to oil & gas sector (see Appendix #3 for listing). COGCC has primacy to implement SDWA – UIC Class program.

- Region 8's role in CDPHE's SIP for the addressing Air Quality in the Denver Metro/North Front Range
  - On July 20, 2012 the Denver Metro North Front Range (DMNFR) was designated as a "Marginal" nonattainment area (NAA) for the 2008 ozone NAAQS. The challenges

facing the DMNFR area for meeting the ozone standard include growth offsetting reductions; mobile, area, and point sources (including oil and gas); and background ozone. The DMNFR failed to attain the 2008 ozone NAAQS by the July 20, 2015 attainment date, so the area was reclassified to a “Moderate” nonattainment area in June 2016. A Moderate area SIP was due to EPA by January 1, 2017.

- Colorado submitted its Moderate area attainment SIP on May 31, 2017. EPA engaged in early collaboration with Colorado for 2008 ozone NAAQS moderate area attainment demonstration planning to help the state avoid being bumped-up to a “Serious” area classification. Ways we are helping Colorado include:

a.  
b.  
c.

## Deliberative Process / Ex. 5

[FYI - 2015 Ozone Nonattainment Proposed Designation]

- EPA sent a December 20, 2017 letter to Governor Hickenlooper outlining the EPA’s intended 2015 ozone NAAQS nonattainment area boundary for the Denver Front Range. This letter started a 120-day period for Colorado to provide additional designations information to the EPA for the areas of the state not yet designated for this NAAQS.

## Deliberative Process / Ex. 5

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- EPA - ECEJ’s role regarding CAA
  - The air and toxics TEP will continue to work with CDPHE in finalizing settlements on the Bill Barrett and K.P. Kauffman tank cases.
- EPA - ECEJ’s role regarding RCRA
  - RCRA’s support of the “Fossil Water” commercial use of oilfield waste water as dust suppressant on roads.

EPA was asked by the Ute Mountain Ute Tribe to investigate the spreading of oilfield wastewater as a dust suppressant on dirt roads. We have collected samples of the oilfield wastewater from the facility selling it as well as samples from roads where the applications took place. The analytical data from the facility samples have been provided to CDPHE and the facility. EPA is still waiting on the road sampling analysis from the lab.

- The RCRA TEP conducts RCRA 7003 inspections at oil and gas facilities on state lands and within the exterior boundaries of the reservation. RCRA conducts approximately 20-30 inspections in Colorado annually. All inspections are coordinated and conducted with COGCC. CDPHE has not been part of these inspections since the regulatory authority is with COGCC.
- Clarify roles/responsibilities on Indian country.
  - Does COGCC issue APDs and inspect production wells/wellpads?  
*[It's our understanding that oil and gas oversight on non-fee land in Indian country is performed by BIA/BLM. BLM performs oversight of drilling and production while BIA oversees "environmental and cultural assessments" for oil and gas.]*
  - Does CDPHE or COGCC issue any permits or conduct inspections on the Southern Ute Indian Reservation – e.g. NPDES wellpad discharge permits? UIC Class II wells?

#### 4) Current Issues (round robin format)

- What is working well
  - The Air and Toxics enforcement program has been working well with the CDPHE APCD Oil & Gas Team. Communication regarding complaints and coordination of inspection activities have been excellent.
  - The RCRA enforcement program has a strong working relationship with CDPHE and COGCC. We have constant communication and coordination regarding inspection activities and complaints. CDPHE and COGCC typically accompanies the RCRA TEP inspectors on most inspections. The programs work together throughout the year to minimize duplication.

- Areas for improvement

#### **Are there any duplicative efforts by our agencies in realm of oil & gas enforcement?**

- Communications? How are we doing with communications at beginning, middle and end of actions? Is there sufficient clarity regarding interests of each organization?
- Are there additional oil & gas activities where CDPHE/COGCC would like EPA support? [See Appendix #2 for examples of technical assistance EPA can offer].
- Region 8's Air Program has been in SIP discussions with Colorado regarding increased flexibility in approving alternative gas detection technologies in the context of leak detection requirements for oil & gas facilities. Optical Gas Imaging (OGI) is the currently

stipulated method in NSPS OOOOa and Colorado's Reg. 7 oil and gas air rules. (See Cindy's writeup on workgroup.)

- Colorado's commission adopted rules revising LDAR at their November 2017 board meeting and are now waiting for legislative review. We were not able to agree on approvable language regarding alternative leak detection technologies, but committed to continuing working with Colorado on the issue.

## 5) Planning for 2018

Summarize our plans for Colorado for FY18

- The air and toxics TEP continues the investigation and case development of natural gas processing facilities in support of the NEI to reduce hazardous air pollutants.
- In FY18, the RCRA TEP plans to continue coordinating and conducting RCRA 7003 inspections with COGCC in the DJ Basin. The focus will be on oil wells older than approximately 10 years in production and at facilities with evaporation/separation pits. The Region plans to conduct approximately 20-30 inspections. We also plan to conduct inspections within Indian Country on both the Ute Mountain Ute and Southern Ute reservations.
- Are there topics of research pertaining to oil & gas and environment that are of interest to CDPHE/COGCC?  
*[WDEQ has expressed an interest in understanding emissions from enclosed flares used to control emissions from storage tanks. Is CDPHE interested in this?]  
Region 8 convened teleconference meetings with state air folks from UT, WY, CO (thank you for CO participation – CO is leading the way on permitting of these evap pond facilities), NM, and OK to learn from one another on this emission source and emission mitigation – WY and CO are further ahead and providing helpful experience]*
  - “As found” engine testing for destruction efficiency across the catalyst (i.e. work in tandem with CDPHE and collectively our two portable analyzers to determine)?
- Inspector cross-training and information sharing:
  - UIC inspector training  
*[EPA R8 has been asked to deliver a week-long UIC inspector training program for UIC Class I-VI. Date TBD but potentially summer of 2018.]*
  - Design and O&M considerations in controlling tank emissions  
*[EPA will be providing a training for APCD Oil & Gas Team staff on 1/29/18 on the EPA Compliance Alert on this topic]*

## 6) Next Steps

Program-level meetings to discuss 2018 work.

Roundtable with industry on 1/23-1/24.

*[Thank Martha Rudolph and Matt Lepore for their assistance in creating an agenda and invitee list for national oil & gas roundtable meeting to be held at Region 8]*

## **Appendix**

- 1) Administrator Pruitt Response Letter
- 2) Examples of technical assistance EPA can offer
- 3) Colorado Program Authorization Status for programs applicable to the Oil & Gas sector

## **#1 - Administrator Pruitt Response Letter**

**E. SCOTT PRUITT**  
**ADMINISTRATOR**

July 10, 2017

Ms. Kathleen Sgamma  
President  
Western Energy Alliance  
1775 Sherman Street, Suite 2700  
Denver, Colorado 80203

RE: EPA Clean Air Act Compliance Assurance Activities in the Oil and Gas Sector

Dear Ms. Sgamma:

Thank you for sharing your concerns regarding the U.S. Environmental Protection Agency's Clean Air Act enforcement and compliance assurance activities in the oil and gas sector. We discussed the concerns raised in your correspondence with involved staff at the EPA, the Colorado Department of Public Health and Environment and the North Dakota Department of Health. We are focused on increased coordination and collaboration among the EPA, our state partners and oil and gas producers.

The EPA acknowledges the critical role that the oil and gas industry plays in ensuring the nation's energy independence through domestic energy production. We are committed to working with the oil and gas industry and our state partners to ensure domestic oil and gas production occurs in a safe and responsible manner and in compliance with applicable environmental laws. We recognize the efforts industry and our state partners have made to reduce excess emissions from oil and gas operations in order to protect and improve the nation's air quality.

The agency intends to continue working with NDDH to address violations and reduce Bakken oil and gas emissions. Going forward, the EPA plans to focus its Bakken oil and gas compliance assurance activities on operations on the Fort Berthold Indian Reservation where the state does not have Clean Air Act authority, and NDDH will focus its efforts on operations outside of Indian country. Close coordination on these efforts will help to ensure a level playing field.

We plan to continue to work cooperatively with CDPHE on investigations of oil and gas operations and other compliance assurance activities. We are particularly focused on the Denver-Julesburg Basin because of its place in the Denver Metro/Front Range ozone nonattainment area. The EPA anticipates that the state of Colorado will take the lead in pursuing state-only enforcement actions in the Basin and throughout Colorado. The EPA will generally defer to the state where the



state wishes to pursue state-only action and will join the state on a limited, as-requested basis. The EPA will take the lead on oil and gas compliance assurance activities on operations in Indian country in Colorado.

Your letter raises broad concerns about the agency's relationships and communications involving the oil and gas sector. To begin to address those concerns, I have directed agency staff to take the following steps:

1. Each region will work with their counterpart state oil and gas regulatory agencies to enhance existing relationships and define EPA/state-lead responsibilities on compliance and enforcement work to eliminate duplication of efforts. This may include discussions of tools to promote compliance in the oil and gas sector, joint planning and a process for elevating any material disagreements with states that cannot be resolved in the normal course of business.
2. Nationally, we will develop best practices for the judicious use of Clean Air Act section 114 information requests in the oil and gas sector, such as tailoring requests to potential violations and elevating for senior policy consideration any planned information requests that meet certain criteria.
3. We plan to convene a roundtable with representatives of the oil and gas sector and state regulatory agencies to discuss industry concerns and enhance communication while ensuring safe and responsible domestic oil and gas production.

I hope these steps will help to address your concerns and provide a solid basis for our continuing partnership with state agencies. We welcome your ideas in this regard. Please contact Deb Thomas, Region 8 Acting Regional Administrator, at (303) 312-6532 with any questions or recommendations you may have.

Respectfully yours,

A handwritten signature in black ink, appearing to read "E. Scott Pruitt", with a large, sweeping flourish extending from the end of the signature.

E. Scott Pruitt

## #2 - EPA Technical Assistance – Examples:

- GMAP (Geospatial Measurement of Air Pollution) using NEIC's vehicle.  
*[e.g. CDPHE and COGCC have requested GMAP service. These activities have occurred or are scheduled for this FY.]*
- METEC (Methane Emissions Technology Evaluation Center) OGI Testing – EPA/DOE/CSU in discussions on leveraging site to test Optical Gas Imaging (OGI) to better bound its performance in detecting leaks from oil & gas. This is foundational to approving alternative gas detection technologies which requires a demonstration of equivalent emission reductions to OGI.
- A 2018 RARE grant to develop a high-volume sampler (a tool that will measure methane and other VOC emissions from devices in the oil & gas sector).
- CDPHE/EPA Pneumatic Controller Research Project - *[CDPHE requested EPA technical assistance on conducting a pneumatic controller emission measurement project in the DJ-Basin following our Uinta Basin project on the same topic.]*
- Are there additional oil & gas activities where CDPHE/COGCC would like EPA support? Examples:
  - LDAR at gas processing plants. *[There are widespread issues with under monitored equipment and process units not being identified as applicable to LDAR requirements of KKK or OOOOa.]*
  - Engine testing in as-found conditions. *[The EPA has been performing portable analyzer testing in the U&O Reservation. A number of rich burn engines have been found to be exceeding NSPS JJJJ standards. CO and WY have been doing similar engine testing in as-found conditions and found ~1/3 of engines exceeding emission limits. We could team with CDPHE to jointly use two portable analyzers in tandem to assess destruction efficiency across engine catalysts.]*
  - Response to produced water spills, especially if on Indian country. *[Are there ways for Southern Ute Tribe/EPA/CDPHE/COGCC to work together to mutually understand roles and responsibilities of spills – from notification of incidents through clean-up and mitigation?]*
  - RCRA 7003 inspections of wellpad inspections w/ COGCC.  
*[EPA has conducted such joint inspections of wellpad operations with NDIC, WOGCC, COGCC and MBOGC. EPA plans to conduct such joint inspections with UDOGM in FY18 at commercial oilfield waste facilities]*

### #3 - COLORADO PROGRAM AUTHORIZATION\* STATUS FOR PROGRAMS APPLICABLE TO THE OIL AND GAS SECTOR (As of October 31, 2017)

This summary table is for informational purposes only. This table does not have legal effect and is not intended to be an exhaustive description of authorized programs or activities.

\* For the purposes of this table, "Program Authorization" is also used generally to describe program authorization, delegation, or approval. Note: All program authorizations are to UDEQ unless otherwise noted.

AUTHORITY	PROGRAM	CO	NOTES
CAA; Part 60 <sup>1</sup>	NSPS	Y	
CAA; Part 61 <sup>1</sup>	NESHAPS	Y	
CAA; Part 63 <sup>1</sup>	NESHAPS	Y	
CAA; Part 68 (112r)	Chem Accident Prevention	N	
CAA; Part 72	Acid Rain	Y	
CAA Sec 51.166 <sup>1</sup>	PSD	Y/SIP	
CAA TITLE V, Pt 70	Air Permitting	Y	
CAA <sup>1</sup>	New Source Rev	Y/SIP	
CAA Sec 306	Indoor Radon	ND	
CAA; Part 110 <sup>1</sup>	SIPs	Y/SIP	
	Base Realignment And Closure	ND	
CERCLA	Brownfields	ND	
CERCLA	Community Right to Know	ND	
CERCLA	Counterterrorism	ND	
CERCLA	Emergency Response	ND	
CERCLA	Remediation (Long Term)	ND	
CERCLA	Removals	ND	
CWA <sup>2</sup>	Construction Grants	Y	
CWA; Part 123	NPDES Base Program	Y	
CWA; Part 123	NPDES Federal Facilities	N	
CWA; Part 123	General Permits	Y	
CWA; Part 123, 403	NPDES Pretreatment	N	
CWA; Part 123 or 501	NPDES Sludge Mgmt (Biosolids)	N	
CWA Sec 604b	CWA SRF	Y	
CWA Sec 404	CWA 404	N	
CWA Sec 319	Nonpoint Source	ND	
CWA	TMDLs	ND	
EPCRA Sec 313 <sup>3</sup>	TRI Data	ND	

AUTHORITY	PROGRAM	CO	NOTES
EPCRA; 304, 311, 312	EHS, Releases, Tier II Reports	ND	
FIFRA Sec 23a	Pesticide Enforcement	Y	Dept of Ag
FIFRA Sec 23a	Pesticide Certification	Y	Dept of Ag
FIFRA	Endangered Species	ND	
FIFRA	Worker Protection	Y	Dept of Ag
FIFRA	Groundwater Protection	ND	
Oil Pollution Act	Oil Pollution Act (OPA)	ND	
IRAA	Indoor Radon	SR	
NEPA	EIS/EA Review	ND	
Pollution Prev Act	Pollution Prevention, PPIS	SR	
RCRA C <sup>6</sup>	Base Program	Y	
RCRA C	Corrective Action	Y	
RCRA C	Mixed Waste	Y	
RCRA C	Boilers & Industrial Furnances (BIF)	IN	
RCRA C	Toxicity Character	Y	
RCRA C	Land Disposal Restrictions (LDR)	Y	
RCRA C	CERCLA Offsite Rule	ND	
RCRA 7003	Imminent and Substantial Endangerment	ND	
RCRA D	Solid Waste	Y	
RCRA I	UST	IN	
SDWA	PWSS- Base Program	Y	
SDWA	PWSS Rule-IESWTR	Y	
SDWA	PWSS Rule-Stage 1 Disinfectant Byproduct	Y	
SDWA	PWSS Rule-Consumer Confidence	Y	

AUTHORITY	PROGRAM	CO	NOTES
SDWA	PWSS Rule-Variances and Exceptions	Y	
SDWA	PWSS Rule-New PWS definition	Y	
SDWA	PWSS Rule-Administrative Penalty	Y	
SDWA	PWSS Rule-Op Cert. Program	Y	
SDWA	PWSS Rule-Op Cert. Expense Reimb.	IN	
SDWA	PWSS Rule-Radionuclides	Y	
SDWA	PWSS Rule-Arsenic	Y	
SDWA	PWSS Rule-PN	Y	
SDWA	PWSS Rule-Lead & Copper Methods (LCR MR)	Y	
SDWA	PWSS Rule-Filter Backwash	Y	
SDWA	PWSS Rule- LT1	Y	
SDWA	PWSS Rule- LT2	Y	
SDWA	PWSS Rule-Stage 2 DBPR	Y	
SDWA	PWSS Rule-GWR	Y	
SDWA	PWSS Rule-Revised Total Coliform Rule	IN	

AUTHORITY	PROGRAM	CO	NOTES
SDWA Sec 1452	DW SRF	Y	
SDWA Sec 1453	Source Water Assessment	Y/SIP	
SDWA Sec 1428 <sup>1, 8</sup>	Wellhead Protection	Y/SIP	
SDWA Sec 1422	UIC Class I, III and V	N	
SDWA Sec 1422	UIC Class VI	N	
SDWA Sec 1425	UIC Class II Petroleum Related	Y	COGCC
TSCA	Asbestos (MAP)	Y	
TSCA	AHERA Waivers (Enforcement)	Y	
TSCA Sec 306	Indoor Radon	ND	
TSCA Section 1018	Lead Disclosure Rule	ND	
TSCA Section 402(a)	Lead Abatement Rule	Y	
TSCA Section 406(b)	Lead Pre-Renovation Education (PRE) Rule	Y	
TSCA Section 402(c)(3)	Lead Renovation, Repair & Painting (RRP) Rule	N	CO currently evaluating adopting RRP Rule
TSCA	PCBS (Incinerators & Land Disposal)	ND	

**Legend:**

ND= Not delegable
N= State has not sought authorization
IN = In progress
P = Partial
SR = State Run Program
No delegation required depends on funding
SIP = State Implementation Plan
Y = Yes, authorized in whole or in part

**Foot Notes:**

1. State has authority to administer or enforce some or all of these regulations; by State Implementation Plan (SIP) or authorized program. EPA has Federal Implementation Plans for MT and SD for Phase I visibility for all or part of the program. For details on the delegation status of specific subparts for each state, please refer to the following site: <https://www.epa.gov/region8/air-program>.
2. EPA still maintains responsibility for audit resolution.
3. Only the enforcement portion can be delegated.
4. Delegated for commercial applicators only; not for individual applicators.
5. Delegated for commercial and private applicators; not for enforcement under FIFRA.
6. States will continue to adopt standards as Federal standards change.
7. All elements approved, except field filtering for ground water sampling.
8. Approval of Source Water Assessment Plans do not negate the State Implementation Plan (SIP) for Wellhead

